

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

NHO T. TRAN,
D/B/A ART NAIL
RESPONDENTS

FINAL DECISION AND ORDER
97 BAC 214

LS98040621BAC

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Nho T. Tran
4103 W. Sharon Ln.
Franklin, WI 53132

Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Nho T. Tran (DOB 04-10-74) 4103 W. Sharon Ln., Franklin, WI 53132, is duly licensed as a manicurist in the state of Wisconsin (license #2503). This license was first granted on June 6, 1996.

2. At all times relevant to this action, Art Nail was located at 3333 S. 27th St. in Milwaukee, WI 53215 and was duly licensed as a Wisconsin manicuring establishment (license #1030). That license was first granted on October 8, 1997. Nho T. Tran was listed with the Department of Regulation and Licensing as the owner of Art Nail. As owner, Ms. Tran was and

is at all times relevant to this action responsible for compliance with ch. 454, Stats. and Wisconsin Administrative Code chs. BC 2, 3 and 4.

3. On exact dates unknown, but at least on December 6, 1997, Art Nail's employee bathroom did not possess hand towels for their employees nor were dirty towels stored in a metal or plastic container.

4. On exact dates unknown, but at least on December 6, 1997, Lien Hong Nguyen rented a chair Nho T. Tran at Art Nail. At no time relevant to this action did Ms. Lien Nguyen hold a manicuring establishment license for the chair she was renting from Ms. Tran.

5. On exact dates unknown, but at least on December 6, 1997, Loan Hong Thi Nguyen rented a chair Nho T. Tran at Art Nail. At no time relevant to this action did Ms. Loan Nguyen hold a manicuring establishment license for the chair she was renting from Ms. Tran.

6. On exact dates unknown, but at least on December 6, 1997, Quynh Chi Thi Tuong rented a chair Nho T. Tran at Art Nail. At no time relevant to this action did Ms. Tuong hold a manicuring establishment license for the chair she was renting from Ms. Tran.

7. In resolution of this matter, Ms. Tran consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

By the conduct referred to in ¶¶ 3-6, above, Nho T. Tran, d/b/a Art Nail, violated sec. 454.15(2)(i), Stats. and Wis. Admin. Code §§ BC 2.04, BC 2.06 and BC 4.10.

ORDER

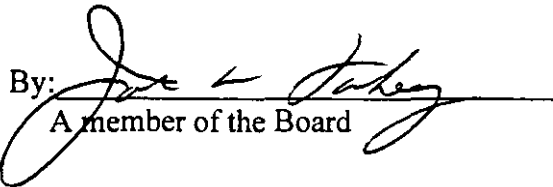
NOW, THEREFORE, **IT IS HEREBY ORDERED** that Nho T. Tran, d/b/a Art Nail shall pay to the Department of Regulation and Licensing a forfeiture of FOUR HUNDRED dollars (\$400.00). Payment shall be submitted within 45 days from the date of this order. Payment shall be made by *certified check or money order*, payable to the Wisconsin Department of Regulation and Licensing and sent to:

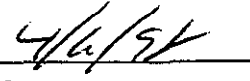
Department Monitor
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

IT IS FURTHER ORDERED that in the event Nho T. Tran fails to timely submit payment of the forfeiture as set forth above. the establishment license of Art Nail (#1030) **SHALL BE SUSPENDED**, without further notice or hearing, until Respondents have complied with the terms of this Order.

This Order shall become effective upon the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: 
A member of the Board


Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST :	:	
	:	
NHO T. TRAN,	:	STIPULATION
D/B/A ART NAIL	:	97 BAC 214
RESPONDENTS.	:	

It is hereby stipulated between Nho T. Tran, d/b/a Art Nail, personally on her own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows.

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (97 BAC 214). Ms. Tran consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Ms. Tran understands that by the signing of this Stipulation she voluntarily and knowingly waive her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

3. Ms. Tran is aware of her right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.

4. Ms. Tran agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the attached order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Barbering and Cosmetology Examining Board assigned as an advisor in this investigation may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Ms. Tran in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Nho T. Tran 3-30-98
Nho T. Tran Date
d/b/a Art Nail

Steven M. Gloe 4-3-98
Steven M. Gloe, Attorney Date
Division of Enforcement

Department of Regulation & Licensing

State of Wisconsin

P O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On April 6, 1998, the Barbering and Cosmetology Examining Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: _____ Case #: _____

The amount of the forfeiture is: \$400.00 Case # LS98040621BAC

Please submit a check or a money order in the amount of \$ 400.00

The costs and/or forfeitures are due: May 22, 1998

NAME: Nho T. Tran LICENSE NUMBER: 2503

STREET ADDRESS: 4103 West Sharon Lane

CITY: Franklin STATE: WI ZIP CODE: 53132

Check whether the payment is for costs or for a forfeiture or both:

 COSTS X FORFEITURE

Check whether the payment is for an individual license or an establishment license:

 X INDIVIDUAL ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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Committed to Equal Opportunity in Employment and Licensing+

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Nho T. Tran,
d/b/a Art Nail,

AFFIDAVIT OF MAILING

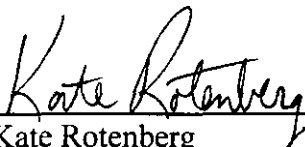
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On April 14, 1998, I served the Final Decision and Order dated April 6, 1998, and Guidelines for Payment of Costs and/or Forfeitures, LS98040621BAC, upon the Respondent Nho T. Tran, d/b/a Art Nail, by enclosing true and accurate copies of the above-described documents in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 159 417.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

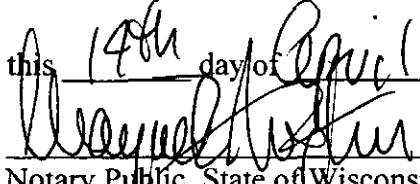
Nho T. Tran
d/b/a Art Nail
4103 W. Sharon Lane
Franklin WI 53132



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 14th day of April, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: NHO T TRAN, d/b/a ART NAIL

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 4/14/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935